

# United States Patent and Trademark Office



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,832	11/09/2001	Patrice Vincent	Q65738 8154	
7590 11/03/2003			EXAMINER	
Sughrue Mion Zinn Macpeak & Seas 2100 Pennsylvania Avenue NW Suite 800 Washington, DC 20037-3213			RAMANA, ANURADHA	
			ART UNIT	PAPER NUMBER
			3732	
			DATE MAILED: 11/03/2003	/ / /

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary    Og/890,832			Application No.	Applicant(s)	_			
Anu Ramana  The MAILING DATE of this communication appears on the cover sheet with the correspondence address—  Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Edenations of time may be available under the provisions of 3 (76F t. 138(a). In no event, however, may a reply be timely filed after 50 (c) MONTHS from the mailing date of this communication.  If the period for reply is specified above, he maximum statisticy period will apply and will applie 3 (b) MONTHS from the mailing date of this communication.  If the period for reply is specified above, he maximum statisticy period will apply and will be communication.  If the period for reply is specified above, he maximum statisticy period will apply and will apply and will apply and will be considered timely.  If the period for reply is specified above, he maximum statisticy period will apply and will apply and will apply and will be considered timely.  If the period for reply is specified above, he maximum statisticy period will apply and will apply and will apply and will be considered timely.  Any reply received by the Citical above, he maximum statisticy period will apply and will apply red will be considered timely.  If the period for reply is specified above, he maximum statisticy period will apply red will apply red will be considered timely.  Any reply received by the Citical apply apply and will apply red will apply red will be considered timely.  Any reply received by the Citical apply apply apply apply red will be considered timely.  If approved, orrected drawings are required in reply to this Office action.  Is approved, corrected drawings are required in reply to this Office action.  The drawing(s) fil		•	09/890,832	VINCENT, PATRICE				
Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Estencions of time may be available under the provisions of 3 rCFR 1.138(a). In no event, however, may a reply be timely filled alters SV (8) MONTHS from the mailing date of this communication.  If the period for reply is appetited above, he maximum statisticy period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  If the period for reply is appetited above, he maximum statisticy period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  If the period for reply is appetited above, he maximum statisticy period will apply and will expire SIX (6) MONTHS from the mailing date of this communication, even if timely filled, may reduce any status.  1) □ Responsive to communication (s) filled on 01 October 2003.  2a) □ This action is FINAL.  2b) □ This action is non-final.  3) □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) □ Claim(s) 1-10 is/are pending in the application.  4a) Of the above claim(s) □ is/are withdrawn from consideration.  5) □ Claim(s) 1-4 and 6-9 is/are rejected.  7) □ Claim(s) 5 and 10 is/are objected to.  8) □ Claim(s) 5 and 10 is/are objected to.  8) □ Claim(s) 5 and 10 is/are objected to by the Examiner.  10) □ The drawing(s) filed on □ is/are: a) □ accepted or b) □ objected to by the Examiner.  Application Papers  9) □ The specification is objected to by the Examiner.  11) □ The proposed drawing correction filed on 01 October 2003 is: a) □ approved b) □ disapproved by the Examiner.  12) □ The orth or declaration is objected to by the Examiner.  13) □ All b) □ Some * c) □ None of:  1. □ Certified copies of the priority documents have been received in Application No. □ application from the International Bureau (PCT	Office Action Summary		Examiner	Art Unit	_			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ③ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provisions of 37 CFR 1.1386,1. In no event, however, may a reply be timely filled after 51 K (6) MONTH'S from the mailing date of this communication.  If the period for reply specified above is less than thirty (30) days, a reply within the statutory pristratum of thirty (30) days will be considered timely.  If the period for reply specified above is less than thirty (30) days, a reply within the statutory pristratum of thirty (30) days will be considered timely.  If the period for reply within the set or advanded period for reply within the set of advandance of the communication.  Failus to reply within the set or advanded period for reply with by statute, cause the application to become ABANDONED (30 U.S. ¢. 133).  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filled, may reduce any samed patent term adjustment. See 37 CFR 1.704(b).  Status  1) ☐ Responsive to communication(s) filled on 01 Cotober 2003.  2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.  3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) ☐ Claim(s) 1-10 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) ☐ Claim(s) 1-2 and 6-9 is/are rejected.  7) ☐ Claim(s) 1-4 and 6-9 is/are rejected.  7) ☐ Claim(s) 5 and 10 is/are ablowed.  6) ☐ Claim(s) 5 and 10 is/are objected to.  8) ☐ Claim(s) 5 and 10 is/are objected to by the Examiner.  10) ☐ The drawing(s) filled on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  11) ☐ The p			Anu Ramana	3732				
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THE MAILING DATE OF THIS COMMUNICATION.  Estensions of time may be variable under the provisions of 37 CRR 1.136(a). In no event, however, may a reply be timely filed after Six (6) MONTHS from the mailing date of this communication.  If the period for perly specified above, i.e. the intrity (30) days, a reply within the statutory minimum of thiny (30) days will be considered timely.  If NO period for reply is specified above, i.e. the maximum statutory period will apply and will expire Six (6) MONTHS from the mailing date of this communication.  Failure to reply which the set or estended period for reply will, by static, cause the application to become adNRODCHEZ (55, 130).  samed patent term adjustment. See 37 CFR 1.704(b).  Status  1) Responsive to communication(s) filed on O1 October 2003.  2a) This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-10 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are allowed.  6) Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Application Papers  9) The oath or declaration is objected to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on 01 October 2003 is: a) approved b) disapproved by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) S		• •	V IC CET TO EVDIDE 2 MONTH	(C) EDOM				
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application from the International Bureau (PCT Rule 17.2(a)).		2. Certified copies of the priority documents have been received in Application No						
* See the attached detailed Office action for a list of the certified copies not received.	* 5	application from the International Bu	reau (PCT Rule 17.2(a)).					
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).	14) <u></u> △	· · · · · · · · · · · · · · · · · · ·						
a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.								
Attachment(s)	Attachmen	t(s)						
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9. 4) Interview Summary (PTO-413) Paper No(s) 5) Notice of Informal Patent Application (PTO-152) 6) Other:	2) Notic	e of Draftsperson's Patent Drawing Review (PTO-948)	5) Notice of Informal					

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#### **DETAILED ACTION**

## Claim Objections

Claim 5 is objected to because of the following informalities. In line 3, "the" preceding "side fingers (10b)" should be deleted since the limitation "side fingers" is being recited for the first time in this claim. Appropriate correction is required.

# Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 6, it is unclear what is meant by the term "thrust space" and its structural relationship with the "single finger extended by a spatula (10c)." Applicant is requested to correct the claim language to be consistent with Applicant's disclosure.

### Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feingold et al. (US 5,772,666) in view of Blake (US 6,280,449).

Feingold et al. disclose a one-piece lens injecting apparatus or device 10 having a syringe body 12 with a piston 18; a cylindrical portion 12a containing a preloaded lens in an undeformed

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state and a conical intermediate portion 12b (Figure 1; col. 2, lines 23-36 and lines 45-56; col. 6, lines 1-30; and col. 7, lines 37-41).

Feingold et al. do not disclose that the injection end of piston 18 has a plurality of flexible fingers for pushing the lens.

Blake teaches a lens-injecting device with a pusher element or "plunger" or "piston" 14 made from a plurality of push-blades of "fingers" to facilitate passage of an intraocular lens through a conical sleeve 20 (Figure 1 col. 2, lines 37-46 and col. 8, lines 9-15 and lines 44-59).

Accordingly it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a plurality of fingers, as taught by Blake, on the piston 14 of device 10 of Feingold et al., to facilitate passage of an intraocular lens through the conical intermediate portion 12b.

Regarding claim 7, the use of sealing gaskets or stoppers is well known in the art for the purpose of sealing fluid-filled syringes (refer cited art in the conclusion). Accordingly it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a sealing gasket and a stopper in the preloaded Feingold et al.-Blake device since it is known in the art to provide these structures in a fluid-filled syringe for the purpose of sealing or containment.

Regarding claim 8, Feingold et al. disclose that device 10 can be manufactured from structural grade plastic or metal to allow autoclaving thereof (col. 10, lines 34-37). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the Feingold et al.-Blake device of materials capable of withstanding heat, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use, sterile use by autoclaving, as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

### Allowable Subject Matter

Claims 5 and 6 would be allowable if rewritten in independent form to overcome the objection and 112 rejection stated in this office action, respectively, including all of the limitations of the base claim and any intervening claims.

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anu Ramana whose telephone number is (703) 306-4035. The examiner can normally be reached Monday through Friday between 8:30 am and 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached at (703) 308-2582. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for regular and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

AR Armadha Ramana

SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 3700